STATEMENT OF THE
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
AND THE
GOVERNMENT EMPLOYEES COUNCIL
TO THE HOUSE FOREIGN AFFAIRS SUBCOMMITTEE ON STATE DEPARTMENT
ORGANIZATION AND FOREIGN OPERATIONS ON H. R. 6277, A BILL
TO AMEND THE FOREIGN SERVICE ACT OF 1946

This statement is submitted to the Members of this Subcommittee of the House Committee on Foreign Affairs to summarize the views of the American Federation of Government Employees and of the Government Employees Council, both affiliates of the AFL-CIO, concerning the bill H. R. 6277, which amends the Foreign Service Act of 1946, as amended, in several important respects.

The proposal in H. R. 6277 is to classify in the Foreign Service all positions in the Department of State, the Agency for International Development, the United States Information Agency, and those positions engaged in foreign affairs in other departments and agencies. This proposal, insofar as it endangers the employment security of the employees affected, is opposed by the American Federation of Government Employees and the Government Employees Council as a serious threat to the integrity and preservation of the Federal Civil Service and the Merit System which it exemplifies.

It is our belief that this plan to abolish regular Civil Service positions which exist to perform a support function in the State Department, AID, and USIA is unnecessary. It can only weaken the Civil Service and add nothing to the flexibility and efficiency of the Foreign Service as it presently exists and operates.

The dual system of utilizing Civil Service and Foreign Service employees in the same departments and agencies has worked singularly well for many years. It has been possible for employees to transfer from Civil Service status to foreign service assignments with no administrative difficulty. At present about 400 foreign service personnel are on rotational assignment in Washington in AID alone. Those Civil Service employees comprise a readily available source of specialists for foreign assignments.

The AFGE and GEC are not opposed to the Hays bill, H. R. 6277, in its entirety. There are certain features applicable to the Foreign Service as it presently exists which are highly beneficial to Foreign Service personnel as such. We agree that legislation is needed, as the President stated in his Message to Congress of May 6, "to meet the present-day realities of service abroad" in such troubled areas as the Congo or Vietnam. We are in agreement with the President that "It is only right that we properly and compassionately look after the men and women whom we must send to such places to do our Government's business."

However, it is our contention that it is not necessary nor is it desirable to undermine the Civil Service Merit System to bring about the improvements in the Foreign Service proper for which provision is made in the Hays bill.

Three such beneficial amendments to existing law may be mentioned as examples of provisions in the bill which merit enactment. First, there is the amendment to the Annual and Sick Leave Act proposed in Section 26 to permit continuation of employees in duty status if they incure injury or illness resulting from a hostile act in line of duty during an assignment abroad.

A second desirable provision is the amendment of the Overseas Differentials and Allowances Act, as provided in Section 27, to permit an increase of differentials from the present 25 per cent limit to a limit of 50 per cent when an employee is assigned to duty in a foreign area in which he is exposed to unusual danger of injury which results to hostile activity in that area.

Still another desirable feature of this bill is the amendment of Section 911 of the Foreign Service Act, provided in Section 19 of the bill to permit payment of travel expenses of employees and dependents when warranted by unusual conditions or circumstances in which there is a high degree of personal hardship.

On the other hand, we are apprehensive over the implications which, to a greater or less degree, are clearly indicated in other sections of the bill. We are disturbed by these provisions because they seem to propose an assault on the Civil Service System which the Government can ill afford. They appear to threaten the security and the basic rights of those employees who are performing support functions in the Department of State, AID, USIA and in those other Departments to the conduct of foreign affairs are to be moved into the Foreign Service of the State Department. Specifically it threatens the security and basic rights of more than 10,000 Federal employees in domestic service and 30,000 employees serving overseas.

We believe these features of the Hays bill would demoralize employees at a time when our Country is grappling with complex problems within that gray area between the well defined status of peace and war.

The provision of H. R. 6277 which is most disquieting is Section 22, which authorizes the President within three years to provide for the transfer to the Foreign Service Reserve or Foreign Service Staff of all Civil Service employees in the Department of State, AID and USIA. However, that is not all that the section would accomplish. The section also would authorize the transfer of such personnel "of other Government agencies who are engaged in foreign affairs functions." One can readily identify such additional potential transferees in the Departments of Agriculture; Health, Education and Welfare; Commerce; and Labor.

Application of the bill to employees of these additional Government agencies would be arbitrary and with no choice on the part of the employee to stay in his own agency or be compelled to become part of the Foreign Service. The sole stipulation is that the Secretary of State can take in whomsoever his advisors suggest.

It has been stated that the heads of participating agencies will be responsible for implementing personnel policies and for the management control of their own personnel. However, at a later point in the President's Message, he stated that "after the transitional period the dual Foreign Service-civil service personnel system of the foreign affairs agencies would be ended and only the unified Foreign Service would apply." He added: "The Secretary of State will be responsible for its overall management."

This large body of Federal employees are to be transferred to Foreign Service status within three years. It is true that it has been stated that "those who do not wish to participate will be assisted in obtaining suitable employment in other government agencies." It is also true that it has also been clearly stated that "after the transitional period the dual Foreign service-civil service personnel systems of the Foreign Affairs agencies would be ended, and only the unified Foreign Service would apply."

In other words, those employees who could not be placed in positions in other agencies would be jobless. They would be without the employment which the Government impliedly assured them would be theirs if their services were satisfactory and the need for their services continued. In this instance, the need continues, but under circumstances which did not prevail at the time of employment. Such an action is definitely not consistent with the Government's continuing efforts to build up a career service and maintain it subject to the conditions of the Civil Service Merit System.

Section 22 is what might be termed the basis for our objections, but there are other related sections which complement the provision for this wholesale transfer. The next most objectionable provision is that stated in Section 25. This provision supplements and compounds the removal of this large number of

positions from the competitive Civil Service. It would not only remove positions from the competitive service, but it would divest them of virtually every type of protection which has by law been granted to Civil Service employees.

They would lose the safeguards embodied in the Civil Service Act, which relate to entry into the service; the Veterans Preference Act of 1944, as amended, which covers promotion, retention, transfer, reinstatement, demotion, suspension and discharge, with specified rights of notice and appeal; and the Classification Act, which provides not only a salary schedule, but pay commensurate with duties and responsibilities, and such other benefits as periodic increases, and salary retention. It is believed that the employee still would have the constitutional right to apprise his Congressional representatives of his needs and problems, but such right has been stated specifically and emphatically in the Lloyd-LaFollette Act.

We object most strenuously to the withdrawal of the benefits of any protective legislation from any group of Federal Civil Service employees. There is in the case of the Hays bill no need for depriving 40,000 employees of basic rights which represent the promise of responsibility by the Federal Government toward those employees in return for their willingness to perform their assigned duties. It is in a real sense a form of consideration for an implied contract of employment which the Government is now in effect setting aside. This constitutes a type of unilateral action which does not befit the Government of the United States.

Other sections of the bill are for the most part supplemental to those already discussed, in that they modify the existing Foreign Service to accomodate to the expansion of the Foreign Service Reserve and the addition of Foreign Affairs officers and staff officers and employees. To the extent that they implement the basic idea expressed in Section 22, they are objectionable and do not have our support.

Section 2 domesticizes the Foreign Service by enlarging its definition to include staff and employees who serve at home as well as abroad. Section 3 expands the personnel of the Foreign Service to include Foreign Affairs officers who are to be appointed under a new subsection of the existing Section 522 of the Act.

That new provision, stated in Section 9 of the bill, introduces a new procedure for appointment. At present, appointment is by the Secretary of State. The bill provides for appointment to classes 1, 2 and 3 by the President by and with the advice and consent of the Senate or to classes 4 to 8, inclusive, by the President alone or by the Secretary when directed by the President. The section also extends to those Foreign Affairs officers all provisions of existing law or in the bill applicable to the Foreign Service Reserve.

Section 10 in its amended form would limit the transfer authority in the Act presently applicable to Foreign Service Reserve officers to any officer appointed or assigned "for worldwide service." It would evidently apply to the newly designated Foreign Affairs officers. As now, the appointment or assignment to active duty would be appointment or assignment to a class and not to a particular post and be dependent on age, qualifications, and experience. This provision points up the concept of the Foreign Service as a system of personal rank.

Section 14 of the bill typifies the extent to which this measure permits ruthless disregard of basic rights which the Federal Government has otherwise recognized in the Lloyd-LaFollette Act, the Civil Service Act, the Veterans Preference Act, and Executive Orders 10987 and 10988. This section has been represented as permitting the Secretary to prescribe the manner in which the standard of performance required of officers or employees is determined.

One need read section 637 of the Foreign Service Act of 1946, as amended, to realize the real meaning of Section 14. It can deprive an employee to be selected out, of any right of appeal which he may now be accorded by Section 637, which states the procedure for dealing with separation for cause.

Another portion of the bill which is objectionable is Section 23. It would further compound the arbitrariness of the selection out procedure by placing "any officer or employee of the United States" serving in a foreign country completely at the mercy of his superior.

Section 23 would make it "the policy of Congress that any Chief of Mission, whenever he deems it appropriate, shall prepare and submit reports relating to the service of any officer or employee of the United States serving in the country to which the Chief of Mission is accredited." This would make possible a star chamber proceedings that would permit no appeal.

One more comment on another aspect of the transfer of Civil Service employees into the Foreign Service as provided in Section 22 of the bill. Such a transfer would have particular disadvantage for those employees who are close to the age of 60. That is the age for compulsory retirement in the Foreign Service, whereas it is age 70 under the Civil Service Retirement System. In view of the lower age limit, it would appear unlikely that Civil Service employees nearing age 60 would be selected into the Foreign Service. The alternative would be of course the doubtful possibility of being placed elsewhere or being out of the Government service entirely.

These objectionable provisions of the bill could have no other effect than to demoralize those employees presently in the Civil Service who would be required to transfer to the Foreign Service or have no job at all. There is the stated stipulation that they "will be assisted in obtaining suitable employment in other

Government agencies," but one must be practical about the likelihood of placing any large proportion of at least 40,000 Civil Service employees. Reassignment in the face of manpower ceilings and other restrictions on hiring is at best a remote possibility.

The net result of H. R. 6277 can only be the detriment of the Civil Service employees affected. They would face subjective criteria for selection into the Foreign Service and arbitrary determination of their lack of fitness as they become the victims of the selection out procedure that will overshadow their future.

For many it is a grim probability from which there would be no escape as they move from a job classification and job performance system to one predicated on personal rank and the whim of a single superior.

In short, for these thousands of employees it is a matter of changing the rules of the game while the game is in progress, of cancelling an implied contract of employment without necessity and without justification.

Thank you, Mr. Chairman, for receiving this expression of our views.

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